

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

OCTOBER 31, 2012

LEONARD DAVIS, Judge Presiding

Law Clerk(s): Gabrielle LaHatte
Chief Staff Attorney: Nicole Mitchell

Court Reporter: Shea Sloan
Judicial Assistant: Carrie King

VIRNETX INC. V. APPLE INC.	CIVIL ACTION NO: 6:10-CV-417
ATTORNEYS FOR PLAINTIFF See Sign-In Sheet	JURY TRIAL – DAY 1 ATTORNEYS FOR DEFENDANTS See Sign-In Sheet
On this day, came the parties by their attorneys and the following proceedings were had:	
OPEN: 9:00 AM	ADJOURN: PM

TIME:	MINUTES:
8:58 AM	Preliminary Proceedings: Pretrial matters taken up.
	Jason Cassady for Plaintiff advised the Court that the parties have prepared an agreed Joint Submission on Motions in Limine. Court requested the parties submit the document electronically. Court inquired as to Defendant's agreement. Eric Albritton for Defendant has no objection.
	Mr. Cassady advised the Court that the parties have reached an agreement on Plaintiff's Motion in Limine as to Apple's patents.
	Mr. Cassady discussed procedure for admitting exhibits. Court advised the parties.
	Court requested the gallery make room for additional people.
	Court requested the parties approach for a bench conference. (Bench conference held).
	Court advised the parties that Juror #5 has not arrived. The parties agreed to proceed with remaining 7 Jurors.
9:02 AM	Jury Panel seated in the courtroom.
	Court welcomed jury. Gave brief overview of proceedings.
	Mr. Cawley presented opening statement for Plaintiff.
	Mr. Albritton presented opening statement for Defendant.
	Court addressed the jury.

TIME:	MINUTES:
	Court addressed the parties and will swear in all the witnesses at this time. Court asked those that will be testifying to stand and state their names.
	Witnesses present stood, stated their names, and were sworn by the Clerk.
	Court inquired if the parties request that the Rule be invoked. Mr. Cawley and Court discussed. Court explained the Rule to the parties and excused witnesses.
	Mr. Cassady submitted Plaintiff's Pre-Admit Exhibit List for October 31, 2012, which will be marked as Plaintiff's Exhibit List 1, and without objection, exhibits admitted.
	Mr. Williams announced Defendant does not wish to enter exhibits at this time.
	Court explained to the Jury that the trial will proceed without Juror #5.
10:10 AM	Jury excused from courtroom.
	Court inquired regarding who would be first witness. Mr. Cawley responded.
	Mr. Cassady requested to discuss two exhibits to which Defendant objects. Matt Rogers for Defendant discussed objections to demonstrative exhibits.
	Mr. Cassady discussed two exhibits to which Defendant objects (Microsoft correspondence). Mr. Rodgers responded. Court inquired regarding agreement between the parties. Mr. Rodgers responded. Court inquired regarding nature of use of exhibits. Mr. Rodgers responded. Mr. Cassady replied. Court inquired regarding relevance. Mr. Cassady responded. Court sustained objection. Mr. Caldwell responded. Court further clarified ruling.
	Mr. Rodgers presented additional objection. Mr. Cassady responded. Objection overruled.
10:24 AM	Court in recess.
10:36 AM	Jury seated in courtroom. Trial resumed.
	Brad Caldwell called DR. ROBERT SHORT to the witness stand. Witness previously sworn.
	Direct examination of Dr. Short by Mr. Caldwell.
	Objection by Mr. Rodgers. Court instructed Mr. Caldwell to rephrase the question. Mr. Caldwell continued direct examination.
	Objection by Mr. Rodgers. Objection sustained. Mr. Caldwell continued direct examination.
	Objection by Mr. Rodgers. Overruled. Mr. Caldwell continued direct examination.
	Mr. Caldwell passed the witness. Court inquired of Defendant time for cross examination. Mr. Rodgers responded. Court announced it will recess for lunch until 12:45 PM.
11:56 AM	Jury excused from courtroom. Court in recess.
12:47 PM	Jury seated in courtroom. Trial resumed.

TIME:	MINUTES:
	Cross examination of Dr. Short by Mr. Rodgers.
	Objection by Mr. Caldwell. Requested to approach bench. (Bench conference held). Mr. Rodgers continued cross examination.
	Objection by Mr. Caldwell. Requested to see transcript of deposition used to question witness. Mr. Rodgers responded and continued cross examination.
	Mr. Rodgers passed the witness.
	Redirect examination of Dr. Short by Mr. Caldwell.
	Mr. Caldwell passed the witness. Nothing further from Mr. Rodgers
	Mr. Cassady called Edmund Munger by video deposition.
	Court advised the Jury on video depositions and designations to be played.
	Court inquired as to length of video. Mr. Cassady advised of times. Video played for the Jury.
	Video testimony concluded. Court inquired as to next witness.
	Doug Cawley called Kendall Larsen to the stand. Witness previously sworn.
	Direct examination of Kendall Larsen by Doug Cawley.
	Court inquired of Mr. Cawley regarding afternoon break.
2:37 PM	Jury excused from courtroom. Court in recess.
3:00 PM	Jury seated in courtroom. Trial resumed.
	Continued direct examination of Kendall Larsen by Doug Cawley.
	Mr. Cawley passed the witness.
	Cross examination of Kendall Larsen by Matt Rodgers.
	Objection by Mr. Cawley. Mr. Rodgers responded.
	Mr. Rodgers continued with cross examination.
	Mr. Cassady requested to approach the bench. (Bench conference held)
	Mr. Rodgers continued with cross examination.
	Mr. Cassady objected. Court instructed Mr. Rodgers to rephrase the question.
	Mr. Rodgers continued with cross examination.
	Mr. Rodgers passed the witness.
	Redirect examination of Kendall Larsen by Mr. Cawley.
	Mr. Cawley passed the witness. Nothing further from Defendant.

TIME:	MINUTES:
	Mr. Cassady asked that Mr. Larsen be excused from the Rule. Defendant did not object. Court excused Mr. Larsen from the Rule.
	Mr. Caldwell called Professor Mark Jones to the witness stand.
	Mr. Caldwell requested a brief pause to prepare demonstrative exhibit.
	Court addressed the Jury and inquired regarding their personal schedules and remaining trial schedule. The Jury responded.
	Direct examination of Dr. Mark Jones by Mr. Caldwell.
	Court inquired of Mr. Caldwell regarding upcoming recess for the day. Mr. Caldwell responded.
	Mr. Caldwell continued with direct examination. Mr. Caldwell announced he will continue his examination tomorrow.
	Court addressed the Jury. Jury excused for the day.
5:00 PM	Jury excused from courtroom.
	Court addressed the parties and gave them their times. Plaintiff has used 3 hours and 20 minutes. Defendant has used 1 hour and 38 minutes.
	Mr. Cassady announced that there are some issues to be addressed regarding deposition testimony to be presented tomorrow. Christopher Cravey for Defendant responded that Defendant does have some objections. Mr. Cravey presented objections. Mr. Cassady responded. Court inquired as to reexamination. Mr. Cassady responded. Court inquired re relevance of testimony. Mr. Cassady responded. Court inquired re need for testimony. Mr. Cassady responded. Mr. Cravey responded. Court overruled objection.
	Mr. Albritton requested clarification on ruling. Court and Mr. Albritton discussed.
	Mr. Albritton requested time on Thursday to make offers of proof. Court responded.
5:10 PM	There being nothing further, Court adjourned.